

MICHAEL THOMAS GORMAN
T80924
Sierra Conservation Center
5150 O'Brynes Ferry Road
Jamestown, California 95327
In pro se

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U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

MICHAEL THOMAS GORMAN,

Petitioner

-vs-

No. C 07-2883 MJJ (PR)

**MOTION TO REOPEN
CONSIDERATION OF THE
PETITION FOR WRIT OF
HABEAS CORPUS**

IVAN D. CLAY

Warden, Sierra Conservation Center¹,

Respondent

**MOTION TO REOPEN CONSIDERATION OF THE PETITION FOR WRIT OF
HABEAS CORPUS**

Petitioner, Michael Thomas Gorman, alleges:

1) Petitioner, a California state prisoner, filed a pro se writ of habeas corpus in this court in June 2007 challenging his state court conviction;

¹Matthew C. Kramer, Warden, Folsom State Prison, was originally designated Respondent in this writ. However, petitioner has been transferred to Sierra Conservation Center, where Ivan D. Clay is Warden.

2) He also filed a motion to stay this case while he exhausted a new claim in state court under the then recent United States Supreme Court opinion in *Cunningham v. California*, 127 S. Ct. 856, 871 (2007);

3) On July 30, 2007, this Court granted the motion for stay, as well as petitioner's application to proceed in forma pauperis; this Court instructed petitioner to file this motion to reopen the case with the amended petition for writ of habeas corpus when he has exhausted his state remedies on the *Cunningham* sentencing claim;

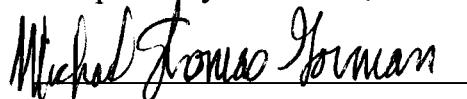
4) Petitioner has now exhausted his state remedies on the *Cunningham* claim; the First District Court of Appeal affirmed his conviction by an opinion issued on December 4, 2007 and the California Supreme Court denied his petition for review on February 13, 2008;

5) Petitioner's amended petition for writ of habeas corpus accompanies this motion. In it, petitioner includes his three original cognizable claims and the newly exhausted *Cunningham* claim;

6) For the reasons stated, petitioner requests that this Court reopen his case and consider the attached amended petition for writ of habeas corpus.

Dated: 3-14, 2008

Respectfully submitted,



MICHAEL THOMAS GORMAN, T80924
Sierra Conservation Center
5150 O'Brynes Ferry Road
Jamestown, California 95327

In pro se

DECLARATION OF SERVICE BY MAIL

Re: Michael Gorman v. Clay.

Court No: A102310

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is _____.

On _____ I served a true copy of the attached MOTION TO REOPEN CONSIDERATION OF THE PETITION FOR WRIT OF HABEAS CORPUS on the following, by placing same in an envelope or envelopes addressed respectively as follows:

Attorney General
455 Golden Gate Ave. Suite 11000
San Francisco, CA 94102

Each said envelope was then sealed and deposited in the United States Mail at San Francisco, California, the county in which I am incarcerated, with the postage thereon fully prepaid.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed on _____, at _____, California.

Declarant

DECLARATION OF SERVICE BY MAIL

Re: Michael Gorman v. Clay.

Court No: A102310

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is _____. On

_____ I served a true copy of the attached MOTION TO REOPEN CONSIDERATION OF THE PETITION FOR WRIT OF HABEAS CORPUS on the following, by placing same in an envelope or envelopes addressed respectively as follows:

Ivan D. Clay
Sierra Conservation Center
Jamestown, CA 95327

Each said envelope was then sealed and deposited and personally served on _____
_____ at Jamestown, California, in the county in which I am incarcerated.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed on _____, at Repressa, California.

Declarant